

**Chapter C**  
**CHARTER**

**ARTICLE I**  
**IN GENERAL**

- Sec. 1.001. Short title.
- Sec. 1.002. Definitions and rules of construction.
- Sec. 1.003. Repealer.
- Sec. 1.004. Severability.
- Sec. 1.005. Creation and name; powers in general.
- Sec. 1.006. Town of Wheatfield.
- Sec. 1.007. Boundaries.
- Sec. 1.008. Civil and fiscal year.
- Sec. 1.009. Other agencies.

**ARTICLE II**  
**GOVERNING AUTHORITY**

**DIVISION 1**  
**GENERALLY**

- Sec. 2.001. Separation of powers.
- Sec. 2.002. — 2.020. Reserved.

**DIVISION 2**  
**MAYOR**

- Sec. 2.021. Election; term; qualifications.
- Sec. 2.022. Powers and duties generally.
- Sec. 2.023. Veto of ordinances and resolutions; overriding veto.
- Sec. 2.024. Supervision of departments, offices, etc.; delegation of powers.
- Sec. 2.025. Office of mayor; administrative assistant.
- Sec. 2.026. Communications and recommendations to common council.
- Sec. 2.027. Execution of deeds, contracts and other papers.
- Sec. 2.028. — 2.040. Reserved.

**DIVISION 3**  
**COMMON COUNCIL**

- Sec. 2.041. Election, term, qualifications and composition.
- Sec. 2.042. Wards.
- Sec. 2.043. President.
- Sec. 2.044. General powers.
- Sec. 2.045. Meetings.
- Sec. 2.046. Rules of order and procedure.
- Sec. 2.047. Quorum.
- Sec. 2.048. Ordinances.

**ARTICLE III**  
**OFFICERS, EMPLOYEES AND DEPARTMENTS**

**DIVISION 1**  
**GENERALLY**

- Sec. 3.001. Qualification of officers.
- Sec. 3.002. Departments and department heads.
- Sec. 3.003. Increases in compensation after approval of budget.
- Sec. 3.004. Suspension and removal of officers.
- Sec. 3.005. — 3.020. Reserved.

**DIVISION 2**  
**ELECTED OFFICIALS**

- Sec. 3.021. Enumerated.
- Sec. 3.022. Manner of election.
- Sec. 3.023. Terms.
- Sec. 3.024. Vacancies in office.
- Sec. 3.025. Compensation.
- Sec. 3.026. City attorney.
- Sec. 3.027. City clerk-treasurer.
- Sec. 3.028. — 3.050. Reserved.

NORTH TONAWANDA CODE

**DIVISION 3  
APPOINTED OFFICERS**

- Sec. 3.051. Appointed by mayor.
- Sec. 3.052. Terms.
- Sec. 3.053. Filling vacancies.
- Sec. 3.054. Compensation.
- Sec. 3.055. Duties.
- Sec. 3.056. Reserved.
- Sec. 3.057. Reserved.
- Sec. 3.058. City engineer.

**ARTICLE IV  
ELECTIONS**

- Sec. 4.001. State law to apply.

**ARTICLE V  
FINANCE**

**DIVISION 1  
GENERALLY**

- Sec. 5.001. Tax levy.
- Sec. 5.002. Claims generally.
- Sec. 5.003. Warrants.
- Sec. 5.004. — 5.020. Reserved.

**DIVISION 2  
BUDGET**

- Sec. 5.021. Budget and budget message.
- Sec. 5.022. Common council action on budget.
- Sec. 5.023. Amendment of budget after adoption.
- Sec. 5.024. Lapse of appropriations.

**ARTICLE VI  
MISCELLANEOUS PROVISIONS**

- Sec. 6.001. Boards and commissions.
- Sec. 6.002. Negligence actions and claims; actions and claims for street defects.
- Sec. 6.004. Franchises.

**ARTICLE VII  
EFFECTIVE DATE AND TRANSITIONAL  
PROVISIONS**

- Sec. 7.001. Effective date.
- Sec. 7.002. Initial officers and elections.
- Sec. 7.003. Existing legislation.
- Sec. 7.004. 2008 Revisions to this charter.

[HISTORY: Adopted at referendum 11-2-1999 by L.L. No. 2-1999; amended in its entirety at referendum 11-4-2008 by L.L. No. 2-2010. Subsequent amendments noted where applicable.]

---

**ARTICLE I  
IN GENERAL****Sec. 1.001. Short title.**

This document may be known and cited as the "Charter of the City of North Tonawanda, New York."

**Sec. 1.002. Definitions and rules of construction.**

- (a) Unless the context requires otherwise, the General Construction Law applies to this charter.
- (b) Unless the context requires otherwise, the following definitions and rules of construction apply to this charter. In the event of a conflict between the provisions of this subsection and the General Construction Law, the provisions of this subsection control.
  - (1) Catchlines for sections, subsections or paragraphs that are printed in boldface or italicized type are intended as mere catchwords to indicate contents and are not titles or parts of this charter, nor shall they be so deemed when amended or reenacted. History or source notes appearing in parentheses after sections are not intended to have any legal effect but are merely intended to indicate the derivation of the matter contained in the section. All references to articles, divisions or sections are to the articles, divisions or sections of this charter.
  - (2) The term "charter" means the Charter of the City of North Tonawanda, New York.
  - (3) The term "city" means the City of North Tonawanda, New York.
  - (4) The term "common council" or "council" means the common council of the city.
  - (5) The term "county" means Niagara County, New York.
  - (6) The term "elector" means a person who is qualified to register to vote.
  - (7) This charter is to be liberally construed.
  - (8) The term "may" is to be construed as being permissive.
  - (9) The term "must" is to be construed as being mandatory.
  - (10) Words and phrases shall be construed according to the common and approved usage of the language. Technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
  - (11) The term "officer" means any individual elected by the voters under this charter, department heads and other persons designated by this charter as officers.
  - (12) All references to officers, employees, boards, commissions and authorities are to officers, employees, boards, commissions and authorities of the city.
  - (13) The term "resident of the city" means a person whose actual principal domicile as determined by state law is within the corporate limits of the city.
  - (14) The term "shall" is to be construed as being mandatory.
  - (15) The term "state" means the State of New York.

- (16) References to the Consolidated Laws, whether by chapters or titles, are to same as now or hereafter amended.
- (17) Words used in the past or present tense include the future as well as the past and present.

**Sec. 1.003. Repealer.**

Except as provided below, chapter 752 of the Laws of 1907, as amended, is repealed. Except as provided below, all local laws, special acts or portions of special acts in conflict with the provisions of this charter are repealed.

- (1) No special act published in the Consolidated Laws is repealed unless so stated in this charter; however all portions of such acts that are inconsistent with this charter are superseded. This subsection does not revive any portion of any such special act previously repealed by the city.
- (2) The following provisions are not repealed by the adoption of this charter and shall become or continue as local laws of the city:
  - a. Title XVI, Sec. 18 of chapter 752 of the Laws of 1907, as amended by Local Law No. 3 of 1933, Local Law No. 3 of 1958, Local Law No. 5 of 1979 and Local Law No. 2 of 1998 (being also Sec. 1-118 of the city's compiled charter) (water rents).<sup>1</sup>
  - b. Local Law No. 3 of 1994 (abolishment of civil service commission).

**Sec. 1.004. Severability.**

The sections, paragraphs, sentences, clauses and phrases of this charter are severable. If any phrase, clause, sentence, paragraph or section is declared unconstitutional by the valid judgement or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections.

**Sec. 1.005. Creation and name; powers in general.**

The citizens of the state who may from time to time reside within the territorial limits of the City of North Tonawanda are hereby created and continued as a municipal corporation in perpetuity to be known as the City of North Tonawanda. The city has all powers granted by the state constitution and general laws of this state. The city may also:

- (1) Take, hold, purchase and convey real property and personal property;
- (2) Take by gift, grant, bequest and devise and hold real and personal estate in trust for purposes of education, art, health, charity or amusement, for parks, gardens or grounds for the burial of the dead or other public use and for the erection of statues, monuments and public buildings, upon such terms as may be prescribed by the grantor or donor and accepted by the city.
- (3) Sue and be sued, complain and defend in any court of law or equity;
- (4) Adopt and use a common seal; and
- (5) Do anything necessary to carry into effect the powers granted to it.

---

1. \*So in original; apparently refers to former § 1-115, which may now be found at § 98-15.1, Water rents.

**Sec. 1.006. Town of Wheatfield.**

The territory within the boundaries of the city shall not be part of the Town of Wheatfield.

**Sec. 1.007. Boundaries.**

The boundaries of the city shall be as established on the effective date of this charter and as subsequently modified pursuant to law; such boundaries are ratified and confirmed.

**Sec. 1.008. Civil and fiscal year.**

The civil and fiscal year of the city commences on January 1 of each year.

**Sec. 1.009. Other agencies.**

Other agencies, bureaus, departments, boards, commissions and offices not provided for in this charter exist as provided by state law and action of the city.

**ARTICLE II  
GOVERNING AUTHORITY**

**DIVISION 1  
GENERALLY**

**Sec. 2.001. Separation of powers.**

All executive authority of the city is vested in the mayor. All legislative authority of the city is vested in the common council.

**Sec. 2.002. — 2.020. Reserved.**

DIVISION 2  
**MAYOR**

**Sec. 2.021. Election; term; qualifications.**

There shall be a mayor elected by the voters of the city for a term of four years. The mayor shall be a resident of the city.

**Sec. 2.022. Powers and duties generally.**

- (a) The mayor shall be the chief executive of the city. The mayor shall exercise a constant supervision over the conduct of all subordinate officers and employees and examine all complaints against all city officers and city employees for misconduct or neglect of duty and report the facts to the common council. The position of mayor shall be a full time position.
- (b) The mayor shall take care that all state laws affecting the city and all legislation adopted by the city are faithfully executed and enforced.
- (c) The mayor may examine the books, vouchers and papers of any board, commission, officer or employee of the city and summon and examine under oath any person in relation thereto. The mayor may require any city officer, city employee, city board or city department to furnish the mayor or the common council with any information, data and reports; neglect or refusal to furnish the same shall be a misdemeanor on the part of the official or person neglecting or refusing so to do.
- (d) On or before August 1 of each year, the mayor shall submit the budget for the ensuing year as provided in article V, division 2 of this charter.
- (e) The mayor shall have such other powers and duties as are provided by state law, this charter, local law, city ordinance or city resolution.

**Sec. 2.023. Veto of ordinances and resolutions; overriding veto.**

- (a) Except as otherwise provided in this section, no ordinance or resolution takes effect until it has been approved by the mayor. The city clerk-treasurer shall present each ordinance and resolution passed by the common council to the mayor within three days after passage by the common council. If the mayor approves of the ordinance or resolution, the mayor shall sign it and return it to the city clerk-treasurer and it shall then take effect as provided in section 2.048. If the mayor does not approve or disapprove of an ordinance or resolution and make the required submission to the city clerk-treasurer within ten days, the ordinance or resolution shall be deemed to have been approved by the mayor. If the mayor does not approve of the ordinance or resolution, the mayor shall within ten days after it has been presented to the mayor, veto same and transmit a copy of the ordinance or resolution together with a written statement of the reasons for disapproval to the city clerk-treasurer. At the next regular meeting of the common council following receipt by the city clerk-treasurer of the mayor's statement of reasons for disapproving an ordinance or resolution, the city clerk-treasurer shall present the mayor's statement. If at such meeting at least two-thirds of the persons elected to the common council vote to override the mayor's veto of an ordinance or resolution, the ordinance or resolution shall take effect, notwithstanding the veto of the mayor.
- (b) The approval of local laws shall be as provided in Municipal Home Rule Law Secs. 20 and 21.
- (c) If any ordinance or resolution contains more than one specific appropriation or budget item and the mayor may approve or disapprove one or more of such items.<sup>2</sup> The common council may then

override the mayor's veto of the disapproved items. The approval or disapproval by the mayor and the approval by the council notwithstanding the veto shall be subject to the procedures outlined in subsections (a) and (b) of this section, except that the common council shall have until October 31 to override the veto of the mayor as provided in section 5.022 of this charter.

- (d) Notwithstanding the provisions of this section, the mayor shall not have the power to disapprove or veto any of the following and the same shall not be presented to the mayor for approval or disapproval:
- (1) Rules of order and procedure for meetings of the common council or committees thereof.
  - (2) Any action of the council appointing officers, filling vacancies in offices, or approving the appointment of officers or deputies, except positions over which the mayor has sole approval authority.

**Sec. 2.024. Supervision of departments, offices, etc.; delegation of powers.**

- (a) Except as otherwise provided by law and this charter, the mayor shall direct and supervise all departments, offices and agencies of city government.
- (b) Pursuant to the provisions of the Civil Service Law, the head of each department shall be appointed by the mayor with the consent of the common council and shall serve until removed. The mayor may authorize any city officer or department head who is subject to the mayor's authority and supervision to exercise any of the mayor's powers with respect to subordinates in that officer's or department head's department, office or agency.

**Sec. 2.025. Office of mayor; administrative assistant.**

- (a) There is established the office of mayor. The office shall assist the mayor in the performance of official duties. All salaried personnel in the office of mayor shall be appointed by the mayor. Compensation for salaried personnel in the office of mayor shall be determined annually in the budget process.
- (b) Within the office of the mayor there shall be the position of administrative assistant. The administrative assistant is an officer of the city. The administrative assistant shall be the graduate of an accredited program of public administration or public policy and have had at least three years' experience in local government administration, or an equivalent combination of education and experience as determined by the mayor. Subject to the direction and control of the mayor, the administrative assistant shall supervise the office of the mayor and all employees of such office shall be subject to the direction and control of the administrative assistant. The administrative assistant shall have such other duties as may be assigned by the mayor.

**Sec. 2.026. Communications and recommendations to common council.**

The mayor shall communicate to the common council at its first meeting in February of each year a general statement of the affairs of the city in relation to its finances, government and improvements, with such recommendations as the mayor may deem proper. The mayor shall recommend to the common council such measures as deemed necessary to expedite or carry into effect any legislation which the council shall have passed.

---

2. \*So in original.



**Sec. 2.027. Execution of deeds, contracts and other papers.**

When authorized by the common council, the mayor shall execute on behalf of the city all deeds, contracts and other papers required to be executed as an act of the city.

**Sec. 2.028. — 2.040. Reserved.**

DIVISION 3  
COMMON COUNCIL

**Sec. 2.041. Election, term, qualifications and composition.**

- (a) The common council consists of five council members.
- (b) Two members of the council shall be residents of the city and shall be elected at large by the voters of the city for staggered terms of four years each.
- (c) One council member shall be elected by the voters of each ward for terms of two years each. Each such council member must be a resident of the ward from which the council member is elected.

**Sec. 2.042. Wards.**

Initially, the city is divided into three wards with boundaries the same as the county legislative districts for the city.

**Sec. 2.043. President.**

- (a) The common council shall meet on January 2 of each year; except that if such day falls on a Saturday, Sunday or legal holiday, such meeting shall be held on the next succeeding day that is not a Saturday, Sunday or legal holiday. At such meeting the common council shall elect a president from among its membership. The president of the common council shall preside at meetings of the common council. The president has the right to vote on any question, submitted to the common council.
- (b) In the case of the temporary absence or temporary disability of the mayor, the president of the common council shall be vested with the powers and duties of the mayor. In the absence or inability to act of both the mayor and the president of the common council, the common council shall appoint a councilperson to exercise the powers and duties of the mayor. This subsection shall not be interpreted to provide that the president of the common council becomes mayor in the event of a vacancy in the office of mayor.

**Sec. 2.044. General powers.**

- (a) The common council shall exercise all legislative powers of the city.
- (b) The common council may adopt and amend local laws, ordinances and resolutions in the exercise of its powers.
- (c) The common council shall be the judge of the election and qualifications of its members.

**Sec. 2.045. Meetings.**

- (a) Except as stated in section 2.043, regular meetings of the common council at times designated by resolution of the common council.<sup>3</sup>
- (b) Special meetings of the common council may be called by either the mayor, the common council president, or any three members of the common council, by a written notice of the time and place of such proposed meeting filed with the city clerk-treasurer and served upon the members of the common council at least 24 hours prior to the proposed meeting.

---

3. \*So in original.

**Sec. 2.046. Rules of order and procedure.**

The common council shall determine the rules of its proceedings. The rules shall not be subject to the approval of the mayor pursuant to section 2.023 of the charter and shall be valid without the mayor's approval.

**Sec. 2.047. Quorum.**

A quorum shall consist of a majority of the members elected to the common council, including the president, but a lesser number may adjourn from time to time. Except as provided in the Local Finance Law for the issuance of obligations, no resolution authorizing or involving the expenditure of money or levying taxes or assessments shall be adopted except by a majority vote of the entire membership of the common council.

**Sec. 2.048. Ordinances.**

- (a) Ordinances become effective the day after publication of the title and a brief abstract thereof in a newspaper of general circulation in the city, but an ordinance may provide for a later effective date. Resolutions become effective upon approval by the mayor or upon readoption by the council notwithstanding veto by the mayor pursuant to section 2.023 of this charter, but a resolution may provide for a later effective date.
- (b) Notwithstanding subsection (a) of this section, upon a finding of an emergency an ordinance may be adopted that becomes effective upon approval by the mayor or upon readoption by the council notwithstanding veto by the mayor pursuant to section 2.023 of this charter.

**ARTICLE III  
OFFICERS, EMPLOYEES AND DEPARTMENTS**

**DIVISION 1  
GENERALLY**

**Sec. 3.001. Qualification of officers.**

Every person elected or appointed as an officer of the city under this charter shall, in addition to other qualifications provided for in this charter or in state law, be an elector in, and a resident of, the city. The elector and residency qualifications for appointed officers may be waived by council resolution when it is not possible to find qualified candidates who meet the residency and elector requirements.

**Sec. 3.002. Departments and department heads.**

- (a) The following departments may be created in city government:
  - (1) Public works department
  - (2) Fire department.
  - (3) Police department.
  - (4) Such other departments as are deemed necessary.
- (b) Existing departments are ratified until altered as provided in this charter.
- (c) Departments may be created or abolished by ordinance or local law consistent with the Civil Service Law. The functions of departments shall be as provided by ordinance or local law.
- (d) Department heads are officers of the city. Department heads may promulgate rules for the operation and governance of their departments consistent with city policy and state and federal laws. Department heads are subject to the direction and control of the mayor or the designee thereof.
- (e) Department heads shall appoint, manage and terminate department personnel in a manner consistent with the Civil Service Law.
- (f) Department personnel are subject to the direction and control of the department head and the mayor or the mayor's designee.

**Sec. 3.003. Increases in compensation after approval of budget.**

The provisions of section 25 of the General City Law do not apply to the city; provided, however, that no increase in compensation shall be granted when funds are not available for same.

**Sec. 3.004. Suspension and removal of officers.**

- (a) The city clerk-treasurer is subject to removal or suspension by the mayor in accordance with the provisions of this section. All appointed officers are subject to removal or suspension by the appointing authority in accordance with the provisions of this section.
- (b) The city clerk-treasurer and all appointed city officers may be removed from office for incompetency, misconduct in office or neglect of duty. No such person shall be removed from office until the person

has received a written notice of the charges against the person and the person has had an opportunity to be heard either in person or by counsel.

- (c) Persons against who<sup>4</sup> charges have been filed pursuant to this section may be suspended pending resolution of the charges if the same is in the best interest of the city, provided that a copy of the charges must be served upon the person being suspended within 48 hours after the suspension.

**Sec. 3.005. — 3.020. Reserved.**

---

4. \*So in original.

DIVISION 2  
**ELECTED OFFICIALS**

**Sec. 3.021. Enumerated.**

The officials of the city elected by the voters are the mayor, the council members, the city attorney and the city clerk-treasurer.

**Sec. 3.022. Manner of election.**

The person who receives a plurality of the votes for a specified city office at the general election shall be the person elected.

**Sec. 3.023. Terms.**

- (a) The term of office of all elected officers of the city shall commence on January 1 next succeeding their election. Except as otherwise provided, the terms of office of all elected officers of the city shall expire on December 31 in the last year of their respective terms. Every elected city officer shall hold office until a successor shall have been elected and shall have qualified, unless the office has become vacant.
- (b) Except as otherwise provided in this charter, the term of office of the city attorney and city clerk-treasurer is four years.

**Sec. 3.024. Vacancies in office.**

Vacancies occurring in any elective office shall be filled by the common council at its next regular meeting, where practicable, after creation of the vacancy. The person appointed to fill the vacancy shall hold office only until December 31 next succeeding the first annual election at which the vacancy can be filled after the vacancy occurred.

**Sec. 3.025. Compensation.**

- (a) Except as otherwise provided by subsection (b) of this section and state law, the salaries of elected officers of the city,<sup>5</sup> are as established by ordinance. Such ordinance shall be adopted no later than May 1 of each year. Such salary shall take effect on January 1 of the ensuing year and shall not be changed during the continuance of the term of office to which such officer shall have been elected.
- (b) The salary of the mayor shall be commensurate with the salary paid to the chief executive officers of New York Municipalities of a similar size as the city.

**Sec. 3.026. City attorney.**

- (a) The city attorney shall prosecute and defend all actions and proceedings by and against the city and every department thereof and to perform<sup>6</sup> such other professional services relating to the city as the mayor, common council or city clerk-treasurer may direct.
- (b) The city attorney shall be the attorney and counselor of the city and of its various boards and departments, including the city clerk-treasurer. The city attorney may retain additional counsel when

---

5. \*So in original.

6. \*So in original.

necessary and when approved by resolution of the common council. A conflict of interest shall be deemed to exist, and the city attorney must recuse himself or herself and not represent any party, where litigation in whatever forum, involves claims by one or more elected officers of the city against one or more other elected officers of the city. Subject to availability of budgeted funds, the city attorney may appoint such assistants as deemed necessary. Such appointments shall not be subject to confirmation by the common council.

- (c) The city attorney shall, when required, prepare all legal papers, contracts, deeds and other instruments for the city and the different departments thereof and also attend meetings of the common council.
- (e) <sup>7</sup>The common council shall pay the city attorney all disbursements or expenses incurred by the city attorney on behalf of the city as provided for in the adopted budget.

**Sec. 3.027. City clerk-treasurer.**

- (a) The city clerk-treasurer shall:
  - (1) Assist the mayor in preparation of the budget.
  - (2) Be the chief fiscal officer of the city.
  - (3) Be the custodian of all moneys belonging to the city and of all bonds and other evidence of the city's indebtedness.
  - (4) Maintain budgetary control over all departments and offices of the city.
  - (5) Collect all moneys belonging to the city unless the duty to collect same is vested in another city officer or city employee.
  - (6) Deposit all city funds in depositories designated by the common council.
  - (7) Prepare the agenda for, issue required notices for, and in-person, or through his or her designee, be present for all meetings of the common council and shall, through its office, act as clerk of the common council.
  - (8) The city clerk-treasurer shall record all local laws, bylaws, rules, ordinances, resolutions and proceedings of the common council in books provided by the city and kept for that purpose.
  - (9) Through its office, act as clerk for such officers and public boards within the city as the common council may direct.
  - (10) Except as otherwise provided by this charter, have the custody of the city seal and all city records, books and papers.
  - (11) The city clerk-treasurer shall sign all licenses and shall keep an accurate record of all such licenses and permits. Such record shall specify the date of each license, to whom issued, the amount paid therefore<sup>8</sup> and such other matters as may be required by the common council.
- (b) If the city clerk-treasurer becomes disabled but a vacancy in the office is not created, the mayor shall appoint an elector of the city to serve as acting city clerk-treasurer during such period of disability. The person so appointed shall have all of the powers of the city clerk-treasurer and shall receive the

---

7. \*So in original.

8. \*So in original.

same salary as the city clerk-treasurer.

- (c) On or before the fifteenth day of each month the city clerk-treasurer shall file with the common council a financial report in the form prescribed by the common council. The report shall contain the following information concerning city finances:
  - (1) Detailed statements as to the expenditure and receipts during prior month and for the fiscal year to date.
  - (2) The balance in each fund of the city and the depositories in which they are located.
  - (3) Such other information as the common council may require.
- (d) On or before the last day of February of each year the city clerk-treasurer shall file with the common council a financial report in the form prescribed by the common council. The report shall contain the following information concerning city finances:
  - (1) Detailed statements as to the expenditure and receipts for prior fiscal year.
  - (2) The balance in each fund of the city and the depositories in which they are located.
  - (3) Such other information as the common council may require.

**Sec. 3.028. — 3.050. Reserved.**



DIVISION 3  
**APPOINTED OFFICERS**

**Sec. 3.051. Appointed by mayor.**

Subject to confirmation by the common council, the mayor shall appoint such officers as the mayor deems necessary or as are provided by law or ordinance. The provisions of this section shall not apply to the assistant city attorney or city accountant.

**Sec. 3.052. Terms.**

- (a) Officers appointed by the mayor serve until removed by the mayor in a manner consistent with the Civil Service Law. Except for officers in the classified competitive civil service or as otherwise provided by state law or unless sooner terminated, the term of any officer runs concurrently with the term of the mayor who appointed such officer.
- (b) The term of office of officers appointed by the mayor shall be until their respective successors are appointed and confirmed by the common council. This subsection does not apply to officers removed from office by the mayor.

**Sec. 3.053. Filling vacancies.**

All vacancies in an appointed city office shall be filled by the appointing authority in the manner provided for an original appointment to the office.

**Sec. 3.054. Compensation.**

The salary of any appointed officer, except compensation on a per diem basis, shall be as established by ordinance.

**Sec. 3.055. Duties.**

Except as otherwise provided in this charter or state law, the duties of all appointed officers shall be as provided by state law, local law, ordinance, resolution and the appointing authority.

**Sec. 3.056. Reserved.**

**Sec. 3.057. Reserved.**

**Sec. 3.058. City engineer.**

There shall be a city engineer. The city engineer shall be appointed by the mayor, subject to confirmation by the council. The city engineer shall be a professional civil engineer licensed by the state. The city engineer shall be considered a department head.

**ARTICLE IV  
ELECTIONS**

**Sec. 4.001. State law to apply.**

The provisions of state law shall apply to all municipal elections.

**ARTICLE V  
FINANCE****DIVISION 1  
GENERALLY****Sec. 5.001. Tax levy.**

The common council may levy a tax for general governmental purposes and for the payment of principal and interest of the bonded municipal debt and for the amount of other indebtedness of the city lawfully contracted.

**Sec. 5.002. Claims generally.**

- (a) All claims against the city shall be acted upon by the common council at least once each month upon days to be designated for the purpose by the common council. All claims must be presented in writing, setting forth the items of the claim, and be approved by the board or officer authorizing the same. Claims shall be numbered and filed with the city clerk-treasurer. Each claim and demand for services rendered or materials furnished to the city must be presented to the city clerk-treasurer within 60 days after the rendition of the last services or the last delivery of materials charged for therein; the common council shall not allow or cause to be paid any claim or demand for services or materials not presented in conformity with this provision, except by a two-thirds vote of all members of the common council.
- (b) To be considered at a meeting of the common council a claim must have been presented to the city clerk-treasurer by the agenda deadline for the meeting.
- (c) The city accountant or city clerk-treasurer shall not pay any claim prohibited by statute.
- (d) The common council shall not allow or pay any account for services rendered or materials furnished or disbursements made unless such account be made out in items and accompanied by an affidavit attached thereto, made by the person claiming the same, that the items of such account are correct, that the services, disbursements and materials charged therein have been made and rendered, that no part thereof has been paid or satisfied and that there is no prohibited interest in the claim.

**Sec. 5.003. Warrants.**

- (a) The city clerk-treasurer shall pay out moneys only upon warrants signed by the mayor and countersigned by the city clerk-treasurer. No such warrant shall be drawn except for the purpose of payment of lawful indebtedness of the city, as determined after an audit or examination of the amount claimed to be due therefor. No warrant shall be paid by the city clerk-treasurer unless a certificate is filed with the city clerk-treasurer that states the date, amount and character of the claim audited.
- (b) The city clerk-treasurer shall prepare a uniform form for warrants to be issued by city officers and city employees and no other form shall be used.

**Sec. 5.004. — 5.020. Reserved.**

DIVISION 2  
BUDGET

**Sec. 5.021. Budget and budget message.**

- (a) On or before October 1 each year, the mayor shall submit to the common council a budget for the ensuing fiscal year and an accompanying message. **[Amended 10-5-2010 by L.L. No. 5-2010; 12-20-2011 by L.L. No. 1-2012]**
- (b) The message shall explain the budget, both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures and revenues together with the reasons for such changes, summarize the city's debt position and include such other material as the mayor deems desirable.
- (c) The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and except as required by law or this charter, shall be in such form as the mayor deems desirable or the council may require. In organizing the budget, the mayor shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. Budget shall begin with a clear, general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year, and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the preceding fiscal year.
- (d) The budget shall indicate in separate sections:
  - (1) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;
  - (2) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies, when practicable, and the proposed method of financing each such capital expenditure; and
  - (3) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the city and the proposed method of its disposition; subsidiary budget for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.
- (e) The total of proposed expenditures in a budget shall not exceed the total of estimated income for such budget.

**Sec. 5.022. Common council action on budget.**

- (a) A public hearing on the proposed budget shall be held by the common council. The common council shall publish in a newspaper of general circulation in the city a general summary of the budget and a notice stating:
  - (1) The times and places where copies of the message and budget are available for inspection by the public.
  - (2) The time and place, not less than two weeks after such publication, for the public hearing on the budget.

- (3) That interested parties may appear at the hearing and be heard with respect to the proposed budget.
- (b) After the public hearing the common council may adopt the budget with or without amendment. In amending budget, the common council may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income.
- (c) The common council by resolution shall adopt the budget on or before November 15 of the fiscal year currently ending. The mayor may disapprove the entire budget or one or more specific appropriations or budget items pursuant to section 2.023 of this charter. The common council may then override the mayor's disapproval pursuant to section 2.023 of this charter. The common council shall meet no later than December 31 to consider overriding the mayor's veto of budget items. If the common council fails to adopt the budget by November 15, the budget submitted by the mayor pursuant to section 5.021 of this charter shall be deemed adopted for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and if authorized by state law shall constitute a levy of the property taxes, and fees therein proposed. [Amended 10-5-2010 by L.L. No. 5-2010; 12-20-2011 by L.L. No. 1-2012]

**Sec. 5.023. Amendment of budget after adoption.**

- (a) If during the fiscal year the city clerk-treasurer certifies that there are available for appropriation revenues in excess of those estimated in the budget, the common council may make supplemental appropriations for the year up to the amount of such excess.
- (b) The common council may make emergency appropriations to meet a public emergency affecting life, health, property or the public peace.
- (c) If during the fiscal year it appears probable to the city clerk-treasurer that the revenue available will be insufficient to meet the amount appropriated, the city clerk-treasurer shall report to the common council without delay, indicating the estimated amount of the deficit, any remedial action taken and recommendations as to any other steps to be taken. The common council shall then take such further action as it deems necessary to prevent any deficit and for that purpose it may reduce one or more appropriations.
- (d) No appropriation for debt service may be reduced or transferred and no appropriation may be reduced below any current amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

**Sec. 5.024. Lapse of appropriations.**

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if five years pass without any disbursement from or encumbrance of the appropriation.

**ARTICLE VI  
MISCELLANEOUS PROVISIONS**

**Sec. 6.001. Boards and commissions.**

- (a) The common council may, by ordinance or local law, create such boards and commissions as it deems advisable and shall provide by ordinance for the composition, organization and functions of such boards and commissions.
- (b) Except as otherwise provided by state law, members of advisory boards shall be appointed by the mayor.

**Sec. 6.002. Negligence actions and claims; actions and claims for street defects.**

- (a) Claims for any of the following shall be presented in writing to the common council within 90 days after the date of the alleged injury or damage:
  - (1) Personal injury or property damage alleged to have been caused or sustained by reason of any defects in, want of repair of, or obstruction of any of the highways, streets, alleys, sidewalks, or crosswalks, or public places of the city.
  - (2) Personal injury or property damage or alleged to have been caused by the misfeasance or negligence of the city, or any of its officers or employees.
- (b) Claims filed pursuant to subsection (a) of this section shall give the name and address of the claimant, the time, place, cause, nature and extent of the alleged injuries or damages, as far as practicable, and such other information as shall be necessary to describe the circumstances under which the damage or injury occurred. All claims shall be verified by an affidavit of the claimant or his agent or attorney to the effect that the same is true to the claimant's knowledge, or the claimant's best information and belief.
- (c) The failure to file any such claim in the manner and within the time in this section provided shall be a bar to any action against the city on such claim. No action shall be commenced against the city on any duly presented claim until three months after from<sup>9</sup> the presentation thereof, nor shall any such claim be maintained against the city which shall not have been commenced within one year after the cause of action accrued.
- (d) No action shall be maintained for damages or injuries to the person sustained in consequence of the existence of snow or ice upon any sidewalk, crosswalk, or street, nor for damages or injury to person or property alleged to have been caused or sustained by reason of any defects in, want of repair of, or obstruction of any of the highways, streets, alleys, sidewalks, crosswalks or public places of the city unless written notice thereof relating to the particular place, was actually given to the common council and there was a failure or neglect to cause such snow or ice to be removed, or the place otherwise made reasonably safe or repaired within a reasonable time after the receipt of such notice.
- (e) Every process commencing an action against the city shall be served on the mayor.
- (f) Subject to approval by the mayor, a two-thirds majority of the common council may pay, compromise or settle any such claim which may be made against the city for damages or injuries, provided such claim is presented within the time, and in the manner prescribed in this section.

---

9. \*So in original.

- (g) This section does not repeal or modify any existing requirement or statute of limitations. This section does not modify any existing rule of law relative to the question of contributory negligence or impose upon the city any greater duty or obligation than that it shall keep its streets and public places in a reasonably safe condition for public use and travel.

**Sec. 6.004. Franchises.<sup>10</sup>**

- (a) In this section "franchise" means consent to construct, maintain or operate poles, wires, pipes, conduits or other construction in, under or along the streets, alleys, highways or public places of the city.
- (b) No franchise shall be granted until the person applying for same files with the common council a signed application therefor describing the character of the franchise desire and such facts as will enable the common council to act intelligently thereon. The person applying for the franchise shall also pay to the city a sum of money determined by the common council to be sufficient to defray the expenses of giving the notices provided by this section.
- (c) Prior to granting a franchise the common council shall cause a notice of the time and place of the meeting at which the franchise will be initially considered in a newspaper of general circulation in the city. The notice shall be published once each week for two weeks prior to the meeting.
- (d) If the common council refuses to grant a franchise, such refusal may be reconsidered only at the meeting at which the council refused to grant the franchise. Any further consideration of the franchise will require that a new application be filed and compliance with subsections (b) and (c) of this section.
- (e) No franchise shall be granted for a term of over 25 years unless the franchise contains provisions for the franchisee to annually pay to the city a franchisee fee of at least 2 1/2 percent of the franchisee's gross receipts derived from business transacted within the city.

---

10. \*So in original.

**ARTICLE VII**  
**EFFECTIVE DATE AND TRANSITIONAL PROVISIONS**

**Sec. 7.001. Effective date.**

Except as provided in this article, this charter takes effect on January 1, 2002.

**Sec. 7.002. Initial officers and elections.**

- (a) The first elections to be held pursuant to this charter shall be as follows:
- (1) For the offices of mayor and city attorney, in November 2001.
  - (2) For the office of city treasurer, in November 2003.
  - (3) For the members of the common council elected at large, November 2001. At this election the at large candidate who receives the most number of votes shall be elected for a term of four years and the at large candidate who receives the second most number of votes shall be elected<sup>11</sup> for a term of two years. In the case of a tie vote, the terms shall be decided by lot. It is the intent of this subsection to stagger the terms of office of council members elected at large.
  - (4) For council members elected from wards, in November 2001. At this election the three winners shall serve for terms of two years.
- (b) All persons holding appointed office or in the employ of the city on January 1, 2002 shall be governed by the provisions of this charter.
- (c) The common council shall establish by ordinance, no later than May 1, 2001, the compensation rates of the offices subject to election in November 2001. Such compensation rates shall take effect on January 1, 2002.

**Sec. 7.003. Existing legislation.**

Except as provided in this charter and to the extent not inconsistent with this charter, all local laws, ordinances and resolutions in force on January 1, 2002, are continued until amended or repealed as provided in this charter.

**Sec. 7.004. 2008 Revisions to this charter.**

- (a) Effective on March 1, 2009, the position of city clerk shall be abolished. All duties and obligations formerly held by the city clerk shall be assumed by the city treasurer, whose position shall be renamed as the city clerk-treasurer.
- (b) Other revisions to this charter shall take effect on January 1, 2009.

---

11. \*So in original.